

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Michael Talisayan	Team: Squad #11	CCRB Case #: 202007153	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 10/27/2020 11:15 AM	Location of Incident: In front of 633 3rd Avenue	Precinct: 17	18 Mo. SOL 4/27/2022	EO SOL 5/4/2022	
Date/Time CV Reported Wed, 10/28/2020 8:58 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Wed, 10/28/2020 8:58 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. CPT Thomas Smith	00000	939495	017 PCT

Officer(s)	Allegation	Investigator Recommendation
A.CPT Thomas Smith	Abuse: Captain Thomas Smith threatened to arrest § 87(2)(b) [REDACTED]	[REDACTED]
B.CPT Thomas Smith	Abuse: Captain Thomas Smith failed to provide § 87(2)(b) [REDACTED] with a business card.	[REDACTED]
C.CPT Thomas Smith	Abuse: Captain Thomas Smith refused to provide his name to § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

On October 28, 2020, § 87(2)(b) filed this complaint with the CCRB through its call processing system.

On October 27, 2020, § 87(2)(b) was attending a rally in front of 633 3rd Avenue in Manhattan. § 87(2)(b) took a telephone call by his Citi Bike, which was by the edge of the sidewalk. In an unmarked vehicle, Capt. Thomas Smith of the 17th Precinct allegedly motioned to § 87(2)(b) to come over. § 87(2)(b) approached the officer, who told § 87(2)(b) that he and his bike could not be near the sidewalk. Capt. Smith instructed § 87(2)(b) to move. § 87(2)(b) moved. Capt. Smith allegedly told § 87(2)(b) that if he did not move again, the officer would arrest him (**Allegation A: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) moved further onto the sidewalk with his bike. § 87(2)(b) then asked the officer for his business card. Capt. Smith allegedly said that he did not have a business card (**Allegation B: Abuse of Authority, Officer § 87(2)(g)**). § 87(2)(b) allegedly asked for the officer's name and shield number. Capt. Smith allegedly did not provide his name to § 87(2)(b) upon request (**Allegation C: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) went back to attending the rally.

The investigation did not receive body-worn camera (BWC) footage related to this incident. § 87(2)(b) was not arrested or issued a summons during the incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Captain Thomas Smith threatened to arrest § 87(2)(b).

Allegation (B) Abuse of Authority: Captain Thomas Smith failed to provide § 87(2)(b) with a business card.

Allegation (C) Abuse of Authority: Captain Thomas Smith refused to provide his name to § 87(2)(b).

§ 87(2)(b) stated that he was attending a rally of approximately 30 attendees for legislation in front of 633 3rd Avenue. He went to answer a call about one or two feet away from the street. His blue Citi bike was on the edge of the sidewalk and near § 87(2)(b). After a minute of being on the phone, § 87(2)(b) saw Capt. Smith, who was inside an unmarked dark grey Ford (license plate # § 87(2)(e), § 87(2)(b)), motioning to § 87(2)(b) to come over. Capt. Smith exited his car from the driver's side and came within six feet of § 87(2)(b). Capt. Smith told § 87(2)(b) that he and his bike could not be there, and that § 87(2)(b) was preventing the officer from leaving. Capt. Smith told § 87(2)(b) that he needed to move. § 87(2)(b) agreed and moved an unspecified distance. Capt. Smith told § 87(2)(b) with a loud voice that he needed to move and that if § 87(2)(b) did not move, he would arrest him. § 87(2)(b) moved further onto the sidewalk with his bike, moving about five to ten feet away. § 87(2)(b) asked Capt. Smith for his business card, to which Capt. Smith replied that he did not have one. § 87(2)(b) asked for his name and shield number. Capt. Smith did not respond to these requests and returned to his vehicle. § 87(2)(b) went to the driver's side to speak with Capt. Smith again. § 87(2)(b) asked for Capt. Smith's business card, repeating his request for the officer's shield number and name. Capt. Smith never provided his name to § 87(2)(b). While Capt. Smith was gesturing with his arms, § 87(2)(b) read his name, "Smith," on his lapel. § 87(2)(b) stated, "Officer Smith, I'm asking for your business card and shield number again." Capt. Smith told § 87(2)(b) that he did not have a shield number. § 87(2)(b) asked, "You don't have a badge number?" Capt. Smith said, "Because I don't." § 87(2)(b) returned to the sidewalk and continued with the event [Board Review 01].

§ 87(2)(b) provided the investigation with a photograph of the subject officer's vehicle. The photograph depicts a black unmarked sedan with the license plate # § 87(2)(e), § 87(2)(b). The subject officer is not visible in the photograph [Board Review 03].

Capt. Smith testified that he did not recall the incident. He did not recall where he was

during the incident timeframe. He did not recall any events occurring in front of 633 3rd Avenue during the incident timeframe. During his CCRB interview, Capt. Smith was presented with a photograph of an unmarked vehicle with the New York State license plate # § 87(2)(e), § 87(2)(b) [Board Review 03]. Capt. Smith acknowledged that the vehicle belonged to him. He stated that aside from himself, his driver would have access to his vehicle. He did not recall whether he was assigned a driver on this date. He stated that ordinarily no other captain or lieutenant would have access to his vehicle [Board Review 02].

The Roll call for the 17th Precinct for Tour 2 on October 27, 2020, indicates that Capt. Smith was working on the incident date [Board Review 04].

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to three CCRB complaints and has been named as a victim in one other allegations [Board Review 05]:
 - § 87(2)(b)
 -
- Capt. Smith has been a member of service for 16 years and has been a subject in 13 CCRB complaints and 11 allegations, of which five were substantiated.
 - Case # 201307047 involved substantiated allegations of Premises entered and/or searched, and Discourtesy. The NYPD imposed instructions.
 - Case # 201609182 involved substantiated allegations of Force, Frisk, and Search of Person. The NYPD imposed formalized training.
 - § 87(2)(g)

Mediation, Civil, and Criminal Histories

- § 87(2)(b) accepted mediation. § 87(2)(g) § 87(2)(b) stated that he wanted the investigation to continue.
- As of January 28, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this to complaint [Board Review 06].
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 11

Investigator: _____ Inv. Mike Talisayan 04/1/2022
Signature Print Title & Name Date

Squad Leader:	<u>Edwin Pena</u> Signature	<u>IM Edwin Pena</u> Print Title & Name	<u>04/01/22</u> Date
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Reviewer:	<u></u> Signature	<u></u> Print Title & Name	<u></u> Date
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